IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

MACA.No. 2129 of 2005()

OPMV.502/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALA
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APPELLANTS/RESPONDENTS:
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1. MATHEW M.K. @ JOSE, AGED 29 YEARS,
S/O. KURIAN, MUNDATHANATHU, AREEKKARA,
VELIYANNOOR P.O., KOTTAYAM.

2. BENNY KURIAN,
MUNDAMTHANATHU, AREEKARA, VELIYANNOOR, KOTTAYAM.

BY ADV. SRI.MATHEW ABRAHAM

RESPONDENTS: PETITIONERS/RESPONDENTS:
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1. CHACKO, S/O. VARKEY,
LONTHIYIL HOUSE, MANNAKKANADU KARA,
KURICHITHANAM VILLAGE, KOTTAYAM DISTRICT.

2. NATIONAL INSURANCE CO. LTD., KOTTAYAM.

BY ADV. SRI.E.M.JOSEPH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 15/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER I.A. NO. 3652 OF 2005
IN M.A.C.A. NO. 2129 OF 2005

DISMISSED.

15.3.2007 **ID/- K. PADMANABHAN NAIR, JUDGE.**

APPELLANTS' EXHIBITS: **NIL**

EXHIBIT B4 **ORIGINAL OF THE DRIVING LICENCE ISSUED TO THE FIRST APPELLANT**

RESPONDENTS' EXHIBITS: **NIL**

K. PADMANABHAN NAIR, J.

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M.A.C.A. NO. 2129 OF 2005

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Dated this the 15th day of March, 2007

J U D G M E N T

First respondent herein filed O.P(MV) No.502 of 1998 before the Motor Accidents Claims Tribunal, Pala claiming compensation on account of the injuries sustained by him in an accident involving a lorry bearing Reg. No.KL-5/D-8406. It is averred that the accident occurred due to the rash or negligent driving of the vehicle by the second respondent, first appellant herein. It was also averred that the vehicle is covered with a valid policy and as such the insurance company is liable to pay the compensation. The Tribunal, after considering the evidence on record, found that the the accident occurred due to the rash or negligent driving of the vehicle by the driver of the lorry. It was further held that the owner and driver of the vehicle are liable. The insurance company was exonerated from the liability on the ground that the driver was not holding a valid driving licence and also he was not possessed of a badge to drive a

transport vehicle. Hence the Tribunal directed the Insurer to pay the amount with liberty to recover the same from the owner of the vehicle. Challenging that part of the award, the owner and driver have filed this appeal.

2. The appellants have produced the original of the driving licence. It shows that the driver was authorised to drive transport vehicle with effect from 6.11.1996 to 10.6.1996, whereas the accident was occurred prior to that date. The first appellant-driver has also not obtained a badge to drive the transport vehicle. Since the first appellant was not possessed of a valid licence and badge to drive a transport vehicle, the direction of the Tribunal that the Insurer can recover the amount from the owner after making is perfectly correct and does not call for any interference.

In the result, there is no merit in the appeal and it is accordingly dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. OF 2007

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J U D G M E N T

7TH MARCH, 2007